

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MELISSA E. VAZQUEZ-OCASIO,

Plaintiff,

-against-

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

24-CV-5546 (RFT)

ORDER

ROBYN F. TARNOFSKY, United States Magistrate Judge:

I held a conference on July 9, 2025. Plaintiff indicated that she still wished to file an amended complaint. I extended the time for Plaintiff to file her amended complaint until July 30, 2025. (ECF 35.) Defendant had until August 29, 2025 to move to dismiss, and if Defendant moved to dismiss, Plaintiff had until September 30, 2025 to oppose the motion and Defendant had until October 15, 2025 to file a reply. Plaintiff was reminded that if she wanted to continue this case, she needed to file the required documents as ordered by the Court, and that failure to make required filings in a timely way might lead to a decision dismissing this case for her failure to move the case forward. (*See id.*) The Court has not received an amended complaint from Plaintiff, or a request for an extension of time.

The Court mailed a copy of the order filed at ECF 35 to Plaintiff, but the order was not delivered and was returned to the Court. My courtroom deputy emailed Plaintiff a copy of the order on July 23, July 25, and July 28, 2025, on which counsel for Defendant was copied. (See ECF 36.) My courtroom deputy did not receive notices that her emails to Plaintiff were undeliverable, and on prior occasions, my deputy has successfully communicated with Plaintiff at the same email address that received the copies of the

order. On July 28, 2025, my courtroom deputy also called Plaintiff and left a voicemail requesting confirmation that Plaintiff had received a copy of the order. Plaintiff has not responded.

Plaintiff is reminded that she has the ultimate obligation of moving the case to trial, and that “[d]ismissal is warranted where there is a lack of due diligence in the prosecution of the lawsuit by [the] plaintiff.” *Perez v. City of New York*, No. 19-CV-2351 (LAK) (OTW), 2022 WL 21781461, at *1 (S.D.N.Y. Aug. 10, 2022). The Second Circuit has concluded that Federal Rule of Civil Procedure 41(b) permits a court to dismiss an action on its own initiative (*sua sponte*), notwithstanding the rule’s silence on such *sua sponte* dismissal. See *LeSane v. Hall’s Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001) (explaining that even though Rule 41(b) refers only to dismissal upon a defendant’s motion, a district court nonetheless has the authority to dismiss a plaintiff’s case *sua sponte* for failure to prosecute); *Baptiste v. Sommers*, 768 F.3d 212, 216 (2d Cir. 2014) (holding that *sua sponte* dismissal may be warranted “[i]f the plaintiff fails to prosecute or to comply with [the] rules or a court order”).

I am retroactively extending Plaintiff’s time to file an amended complaint until **September 8, 2025**. Plaintiff is warned that her failure to file an amended complaint with the Court by that date (or to request a reasonable extension of time to do so) may lead to dismissal of the Complaint for failure to prosecute under Rule 41(b).

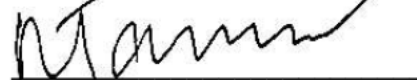
Plaintiff is advised that there is a Legal Assistance Clinic available to assist self-represented parties in civil cases. The Clinic may be able to provide a pro se party with advice in connection with their case. The Legal Assistance Clinic is run by a private

organization called the City Bar Justice Center. The Clinic is not part of or run by the Court, and, among other things, therefore cannot accept filings on behalf of the Court, which must still be made by any self-represented party through the Pro Se Intake Unit by email (ProSe@nysd.uscourts.gov) or by mail or hand delivery (Pro Se Intake Unit, 500 Pearl Street, Room 205, New York, NY 10007).

If Plaintiff would like legal assistance, she should complete the City Bar Justice Center's intake form (available at <https://www.nysd.uscourts.gov/attorney/legal-assistance>) to make an appointment. If Plaintiff has questions about the intake form or needs to highlight an urgent deadline already disclosed in the form, the Clinic can be contacted by phone (212-382-4794) or email (fedprosdny@nycbar.org). In-person appointments in the Thurgood Marshall Courthouse in Manhattan are available Monday through Thursday from 10:00 a.m. to 4:00 p.m. Appointments are also available remotely Monday through Friday from 10:00 a.m. to 4:00 p.m.

Dated: August 6, 2025
New York, NY

SO ORDERED.

A handwritten signature in black ink, appearing to read 'RTarnofsky', written over a horizontal line.

ROBYN F. TARNOFSKY
United States Magistrate Judge